

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI

John Larry Sanders, an individual and  
Specialty Fertilizer Products, LLC, an  
Ohio Limited Liability Company,

Plaintiffs,

v.

The Mosaic Company, a Delaware  
corporation, Cargill, Inc., a Delaware  
corporation, and Cargill Fertilizer, Inc., a  
Delaware corporation,

Defendants.

Civil No. 4:09-cv-00016-JTM

**Complaint**

Plaintiffs John Larry Sanders and Specialty Fertilizer Products, LLC, for their cause of action against The Mosaic Company, Cargill, Inc., and Cargill Fertilizer, Inc., allege and state as follows:

**Parties**

1. John Larry Sanders ("Sanders") is an individual residing at 13101 Canterbury, Leawood, Kansas, 66209.
2. Specialty Fertilizer Products, LLC ("SFP") is a limited liability company duly organized under the laws of the State of Ohio with a principal place of business at 11550 Ash Street, Suite 220, Leawood, Kansas, 66211. SFP's principal place of business was located at 134 Cherry Hill Drive, Belton, Missouri, 64012 for many years and SFP continues to maintain facilities in and contacts with Missouri. Sanders and SFP will be collectively referred to as Plaintiffs.

3. Upon information and belief, The Mosaic Company (“Mosaic”) is a Delaware corporation with a principal place of business at 3033 Campus Drive, Suite E490, Plymouth, Minnesota, 55441.

4. Upon information and belief, Cargill Inc. is a Delaware corporation with a principal place of business at 15407 McGinty Road, Minnetonka, Minnesota, 55391.

5. Upon information and belief, Cargill Fertilizer, Inc. is a Delaware corporation that is wholly owned by Cargill, Inc., with a principal place of business at 15407 McGinty Road, Minnetonka, Minnesota, 55391. Cargill Inc. and Cargill Fertilizer, Inc. will be collectively referred to as “Cargill.” Mosaic and Cargill will be collectively referred to as Defendants.

#### **Jurisdiction and Venue**

6. This is an action for patent infringement arising under the patent laws, Title 35, United States Code.

7. This Court has jurisdiction over the subject matter of this action pursuant to the provisions of 28 U.S.C. §§ 1331 and 1338(a).

8. Venue is proper in this District in accordance with 28 U.S.C. §§ 1391(b) – (c) and 1400(b). Upon information and belief, Mosaic sells various products, including the products complained of herein, throughout the United States and within this judicial district. Upon information and belief, Cargill previously sold various products, including the products complained of herein, throughout the United States and within this judicial district.

#### **Count I – Patent Infringement**

9. Plaintiffs incorporate by reference and re-allege the allegations in paragraphs 1 through 8, above, as if fully set forth herein.

10. On April 3, 2001, United States Patent No. 6,210,459 (the “’459 Patent”), entitled “Soil Nutrient Compositions and Methods of Using Same,” was duly and legally issued by the United States Patent and Trademark Office. A true and accurate copy of the ’459 Patent is attached hereto as Exhibit A.

11. SFP and Sanders jointly own all right, title and interest in and to the ’459 Patent, and SFP owns all rights to recover past and future damages thereunder.

12. SFP previously manufactured, sold, and/or offered for sale in the United States micronutrient compositions that embodied the claimed inventions of the ’459 Patent. SFP placed the required statutory notice that its micronutrient compositions are protected by the ’459 Patent on the labeling of bags containing SFP’s micronutrient compositions.

13. Upon information and belief, Mosaic manufactures, distributes, sells, and/or offers to sell throughout the United States, including within this District, one or more lines of soil nutrient compositions, including, but not limited to, lines of products sold by Mosaic under the name MicroEssentials SZ. Upon information and belief, by reason of its commercial activities, Mosaic has, and is still, directly infringing, contributorily infringing, and/or inducing infringement of, the ’459 Patent claims 3, 4, 7, 8, and 13 – 16, by making, using, selling, and/or offering for sale soil nutrient compositions, including at least MicroEssentials SZ.

14. Upon information and belief, Cargill manufactured, distributed, sold, and/or offered for sale throughout the United States, including within this District, one or more lines of soil nutrient compositions, including, but not limited to, MicroEssentials MAP with zinc in bulk. Upon information and belief, by reason of its commercial activities, Cargill has directly infringed, contributorily infringed, and/or induced infringement of, the ’459 Patent claims 3, 4, 7,

8, and 13-16, by making using, selling, and/or offering for sale soil nutrient compositions, including at least MicroEssentials MAP with zinc in bulk.

15. Upon information and belief, Defendants have deliberately and willfully infringed the '459 Patent and will continue to infringe the '459 Patent and Plaintiffs will be irreparably harmed unless Defendants are enjoined by this Court under 35 U.S.C. § 283 from continuing their infringement.

16. As a direct and proximate result of Defendants' infringement of the '459 Patent, Plaintiffs have been, and are continuing to be, damaged and are entitled to recover damages from Defendants under 35 U.S.C. § 284.

**WHEREFORE**, Plaintiffs request that this court enter a judgment:

(a) Permanently enjoining and restraining Defendants, their officers, directors, agents, dealers, representatives, servants, and employees, and all parties in active concert with Defendants, from directly infringing, contributorily infringing, or inducing infringement of U.S. Patent No. 6,210,459;

(b) Granting to Plaintiffs an award of damages, together with prejudgment interest, for the damages suffered by Plaintiffs as a result of infringement by Defendants, and an award trebling said damages as a result of the willful nature of Defendants' infringement in accordance with 35 U.S.C. § 284;

(c) Awarding Plaintiffs their costs and attorneys' fees, pursuant to 35 U.S.C. § 285; and

(d) Granting Plaintiffs such other and further relief and remedy as justice may require.

#### **Jury Demand**

Plaintiffs John Larry Sanders and Specialty Fertilizer Products, LLC demand a trial by jury in this matter.

Respectfully Submitted,

Date: January 9, 2009

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